

**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE**

**CHAPTER 0080-3-6
REGULATIONS FOR THE ENFORCEMENT OF ICE CREAM**

TABLE OF CONTENTS

0080-3-6-.01 Records

0080-3-6-.03 General Provisions

0080-3-6-.02 Price Filing Requirements

0080-3-6-.01 RECORDS

(1)

(a) All distributors and retailers of frozen desserts as defined in Section 52-335 T.C.A., shall keep for ninety (90) days invoices showing the following:

1. date of delivery
2. products delivered (including the number and size of units delivered)
3. the price of products delivered
4. types of service rendered when other than standard service.

(b) The aforementioned shall be kept for the inspection by the Commissioner of Agriculture or his duly authorized representative in order for him to determine whether or not said distributors and retailers are in compliance with the provisions of T.C.A. 52-335 through T.C.A. 52-341.

(2) All distributors, processors, retailers, and/or their affiliated corporations shall keep for the inspection of the Commissioner of Agriculture or his duly authorized representative, bills of sale, purchase contract, or lease agreements of all equipment used for storing, transporting or selling frozen desserts.

(3) All processors and distributors shall maintain cost records of their operation during the preceding year (either calendar or fiscal year) to be used as a basis for determining whether or not said processor or distributor is selling or offering to sell frozen desserts below cost. Such records shall contain, but not limited to, invoices, cost of materials, salaries, any rebates or discounts, lease agreements, purchase contracts, depreciation of equipment, any computations made for tax purposes either federal or local.

Authority: T.C.A. Section 52-341(B). **Administrative History.** Original Rule filed April 14, 1975, effective May 14, 1975.

0080-3-6-.02 PRICE FILING REQUIREMENTS.

(1) All processors or distributors offering for sale or selling frozen desserts in private label cartons for a specific customer or group of customers shall file a separate price schedule for such private label products with the Commissioner of Agriculture on a form furnished by said Commissioner. Said price schedule shall be filed in accordance with Section 52-335(c)(3) T.C.A., and all regulations promulgated under Section 52-341(B)(2) T.C.A.

(Rule 0080-3-6, continued)

- (2) All processors and distributors offering for sale or selling frozen desserts on a store door or store platform service and/or a plant dock service as defined in Sections 52-335(b)(9) and (10), shall file with the Commissioner of Agriculture a list of all customers receiving such type services and of all changes in and amendments thereto made from time to time within forty-eight (48) hours after said change or amendment.
- (3) Whenever any processor or distributor amends any price schedule theretofore filed with the Commissioner of Agriculture for any reason whatsoever, such processor or distributor shall file a full and complete schedule of all current prices for the market area affected, including prices then on file and not changed by such amendment.
 - (a) All processors or distributors who meet, or have met, in good faith, a lawful competitive price or a lawful competitive condition relating to frozen desserts, shall notify the Commissioner of Agriculture by certified mail of his action within twenty-four (24) hours after said action is effective. Such notification shall include a statement containing the following information:
 1. the name and address of the retailer involved;
 2. all prices, terms and conditions extended in meeting the competition;
 3. the name and address of the processor and/or distributor whose price or condition is being met, and the effective date of such price or condition.
 - (b) A processor or distributor who has met, in good faith, a lawful competitive price or condition relating to frozen desserts, shall retain in his files for a period of one year information and/or statements detailing the circumstances surrounding all competitive situations which he has met.
- (4) All retailers of frozen desserts who purchase the same in packages ready to be sold to the consumer from a point outside the State for resale in this State shall file with the Commissioner of Agriculture, State of Tennessee, a list of prices paid for such frozen desserts and the type service received at least ten (10) days before bringing such frozen desserts into this State for resale, and said retailer shall thereafter advise the Commissioner of any changes in or amendments thereto as required of processors and/or distributors in Section 52-335(c)(3).
- (5) All processors and distributors in completing their price filing forms as required by Section 52-335(c)(3) T.C.A., will in the portion relating to sales area designate their respective sales areas by county, and if a portion of a county, then the town or community affected in that county.

Authority: T.C.A. Section 52-341(B). Administrative History. Original Rule filed April 14, 1975, effective May 14, 1975.

0080-3-6-.03 GENERAL PROVISIONS

- (1) All retailers shall calculate to the nearest whole cent the price of each unit of sale and all one-half cents shall be considered to be the next highest whole cent.
- (2) All other regulations previously issued by the Commissioner of Agriculture for the enforcement of Sections 52-335 through 52-341 T.C.A., and promulgated in accordance with Section 4-501 T.C.A., et seq., are by these regulations repealed.

Authority: T.C.A. Section 52-341(B). Administrative History. Original Rule filed April 14, 1975, effective May 14, 1975.